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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,338	01/18/2002	Lou Chauvin	83304CF-P	9961

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EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/051,338	<b>Applicant(s)</b> CHAUVIN ET AL.	
	<b>Examiner</b> Robert M. Pond	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-10 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-10 and 13-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 October 2005 has been entered.

### ***Response to Amendment***

The Applicant amended claims 1, 10, and 19, and canceled claims 2, 3, 11, and 12. All pending claims (1, 4-10, and 13-19) were examined in this non-final office action.

### ***Response to Arguments***

#### ***Pertaining to Rejection under 35 USC 102 in previous office action***

Applicant's arguments with respect to claims 1, 4-10, and 13-19 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 1. Claims 1, 5-7, 9, 10, 14-16, 18, and 19 are rejected under 35 USC 103(a) as being unpatentable over Rex (PTO-892, Item: U) in view of PRN (V: PTO-892, Item: V).**

Rex teaches the state of the art in online photo delivery services covering photo sharing and photo finishing. Rex teaches Kodak's in-store kiosk (U: see at least page 5). Rex teaches Fusionphoto's web-enabled in-store photo kiosks that rely upon web server and client software to provide consumer upload, store (please note: online storage of images), share, and print services via the kiosk. Rex teaches the same photo kiosk as a networked device being used as a community-based resource for local businesspeople to engage in electronic commerce (see at least page 4). Rex teaches Photo-Me International joining forces with British Telecom to delivery photography booths that double as e-commerce kiosks, and further teaches a plurality of merchants will offer services via the booths. These kiosks will offer online content, email access, online shopping, photographs, and customized postcards, and photo stickers (see at least page 4).

- Providing an offering at one or more the order terminals communicating over a network to a server; maintaining information: (U: see at least page 4).
- Providing an offering for desired good or service from tow or more of said plurality of service providers from said serve; subset of services: Photo-Me International joining forces with British Telecom to delivery photography booths that double as e-commerce kiosks, and further teaches a plurality of merchants will offer services via the booths. These kiosks will offer online content, email access, online shopping, photographs, and customized postcards, and photo stickers (please note: a subset of services) (see at least page 4).
- Computer program code: Inherent in Rex are the structures necessary to permit the execution of program code. For example, Rex teaches web server and client software that facilitates consumer uploading, storing (please note: online storage of images), sharing, and printing via the kiosk.

Rex teaches all the above as noted under the 103(a) rejection and teaches integrating in-store photo kiosks with web-server based e-commerce services to provide shoppers with the convenience of interactive photography-based services and online shopping with a plurality of online goods and service providers. Rex, however, does not specifically disclose maintaining a registry of a plurality of photo service providers and business entities. PRN teaches the convergence of brick & mortar shopping with web-based interactive kiosks

shopping to provide net pure-play retailers with a brick & mortar presence within shopping malls. PRN further teaches shopper access to mall store directories and in-mall sales information (please note: directories maintained by company to reflect any changes in in-mall sales information) (V: see at least page 2).

Therefore it would have been obvious to one of ordinary skill in the art to modify the system and method of Rex to provide online access to shopping directories of providers as taught by PRN, in order to provide a shopping convenience, and thereby increase shopper usage of the service.

*Pertaining to claims 10, 14-16, and 19*

Rejection of claims 10, 14-16, and 19 is based on the same rationale as noted above.

- 2. Claims 4 and 13 are rejected under 35 USC 103(a) as being unpatentable over Rex (PTO-892, Item: U) and PRN (V: PTO-892, Item: V), as applied to claims 1 and 10, further in view of Kodak (a collection of prior art cited in Paper #20041001, PTO-892, Items: U-V).**

Rex and PRN teach all the above as noted under the 103(a) rejection and teach interactive kiosks being used to sell photographic products and services, and further teaches Kodak's providing interactive in-store kiosks to business partners, but does not specifically disclose a presentation format also based on a business relationship. Kodak teaches Kodak Picture Center, a system and method for ordering digital photo services over a communication network among

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a plurality of photo service providers from a plurality of order terminals, each of the order terminals being associated with one of a plurality of business entities. Kodak teaches Kodak Picture Center Online launched on CVS.com the Internet arm of CVS/Pharmacy with more than 4,100 stores. Kodak teaches offering CVS consumers a total photography solution, offering both traditional prints and pictures uploaded to the Internet, and CVS consumers sharing and enhancing their pictures online. Kodak further teaches co-branding the CVS-Kodak photo web site to consumers online at CVS.com and at 4,100 CVS/Pharmacy stores (Paper #20041001, U: see at least pages 1-3; Paper #20041001V: see at least title and page 1). Therefore it would have been obvious to one of ordinary skill in the art at time of invention to modify the system and method of Rex and PRN to implement co-branding of web sites as taught by Kodak, in order to convey the business relationship between business partners, and thereby attract customers to the service.

Pertaining to claim 13

Rejection of claim 13 is based on the same rationale as noted above.

3. **Claims 8 and 17 are rejected under 35 USC 103(a) as being unpatentable over Rex (PTO-892, Item: U) and PRN (V: PTO-892, Item: V), as applied to claims 1 and 10, further in view of Official Notice (regarding within the skill).**

Rex and PRN teach all the above as noted under the 103(a) rejection and teach companies competing as business partners (please note: typically demonstrating friendly and/or neutral relationships) in for online and in-store photographic services, disclose competitors driving sales of photographic products and service, and further disclose interactive kiosks providing online access to in-mall stores, but do not disclose hostile business relationships. The Examiner takes the position that it is old and well known in the arts for mall merchants to sell same or comparable products establishing a competitive selling environment worthy of being referred to as hostile, and further posit that Kodak is well-known to compete in a very competitive market with competitors worthy of being referred to as hostile to Kodak. Therefore it would have obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Rex and PRN to disclose hostile business relationships as taught by Official Notice, in order to convey relationships between business entities.

Pertaining to claim 17

Rejection of claim 17 is based on the same rationale as noted above.



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond  
Primary Examiner  
January 9, 2006